

Rec'd PCT/PTO

04 OCT 2004

## PATENT COOPERATION TREATY

PCT

REC'D 07 JUL 2004

WIPO PCT



INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference callander	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IB 03/01175	International filing date (day/month/year) 13.03.2003	Priority date (day/month/year) 03.04.2002
International Patent Classification (IPC) or both national classification and IPC A61H1/02		
Applicant CALLANDER, Jeffrey, Scott		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  02.09.2003	Date of completion of this report  06.07.2004
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Josten, S  Telephone No. +49 89 2399-2338  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/IB 03/01175**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1, 2 as originally filed

**Claims, Numbers**

1-8 received on 28.05.2004 with letter of 28.05.2004

**Drawings, Sheets**

1/2, 2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/IB 03/01175

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
- (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- ☐ the entire international application,
  - ☒ claims Nos. 2,5,6,7
- because:
- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
  - ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
  - ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
  - ☒ no international search report has been established for the said claims Nos. 2,5,6,7
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- ☐ the written form has not been furnished or does not comply with the Standard.
  - ☐ the computer readable form has not been furnished or does not comply with the Standard.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,4
Inventive step (IS)	Yes: Claims	
	No: Claims	3,8
Industrial applicability (IA)	Yes: Claims	1,3,4,8
	No: Claims	

2. Citations and explanations

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

---

International application No. PCT/IB03/01175

**Re Item V**

**Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. The following documents have been cited in the search report:

D1: US-A-3 769 969 (NEZIK J) 6 November 1973 (1973-11-06)  
D2: US-A-2 738 975 (ZABOY LOUIS G) 20 March 1956 (1956-03-20)  
D3: US-A-2 676 015 (COURTNEY WILLIAM F) 20 April 1954 (1954-04-20)  
D4: US-A-4 103 681 (SHANLEY BERNARD J) 1 August 1978 (1978-08-01) cited  
in the application

2. As to new claim 1 the document **D3** is considered to represent the closest prior art. **D3** (see Figures 1 to 3) discloses an orthopaedic bench for improving therapeutic condition of a user's spine or back by decompression, comprising:

a resting member 11, 12 having a surface to lie supine on and being curved (see the rounded corners in Figure 3) such that, in a user's rest position, the user's head is oriented downwards to a first end of the surface (see Figure 2); and

a supporting member 20, 21 for supporting the resting member 11, 12 such that the surface of the resting member is inclined relative to a floor on which the bench is to be put;

wherein the supporting member 20, 21 is formed such that the surface has a height at a second end thereof, the second end opposing the first end, such that in the user's rest position the user can put his/her feet on the floor while the user's knees are bent and higher than the user's spine or back relative to the floor.

As clearly can be seen from Figure 2 of **D3** the bench could be used by the user in a similar way as the bench of the present application. The knees of the user could be positioned adjacent the second end of the bench with the user's feet placed on the floor and the user's knees being bent. As a consequence of this position of the user on the bench, the user's knees always will be higher than the user's spine. In

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

---

International application No. PCT/IB03/01175

addition, in view of Figure 2 of **D3** no reasons can be found why the user should be unable to put his/her feet on the floor particularly if the user is a tall person.

Thus, claim 1 does not meet the requirements of Article 33(2) PCT.

3. The above novelty discussion clearly shows that claim 1 is unclear (Article 6 PCT) since the claim seeks to define the invention by reference to features of the use to which the bench is to be put. The claim is unclear since though directed to a bench it does not define a bench per se but its relationship to the user of the bench, i.e. the length of the user's lower legs.  
  
Thus, claim 1 does not meet the requirements of Article 33(2) PCT.
4. The features of claim 3 are known from **D4** (see column 3, lines 43 to 55). The inclusion of these features in the bench known from **D3** would therefore be an obvious design possibility for the skilled person.  
  
Thus, claim 3 does not meet the requirements of Article 33(3) PCT.
5. The bench known from **D3** is free of concentration zones straining the user's joints or ligaments (claim 4).  
  
Thus, claim 4 does not meet the requirements of Article 33(2) PCT.
6. The features of claim 8 are a matter of normal design procedure and are known from **D2**, see Figure 1. Consequently, the features of claim 8 cannot be seen as adding an inventive step to the features of claim 1.  
  
Thus, claim 8 does not meet the requirements of Article 33(3) PCT.

**Claims**

- 1) Orthopaedic bench to improve the therapeutic condition of the spine and back **characterized by the fact that** the surface profile presents a curved outline inclined downwards (2) upon which the person lies supine with the head downwards rests freely without having to exert effort and without fixing tools simply by exploiting the force of gravity. .
- 2) Orthopaedic bench to improve the therapeutic condition of the spine and back, as in claim 1, **characterized by the fact that** the bench consists of two zones with different levels of friction ; in the upper part or seat, there is a high friction surface securing the person in position using only the force of gravity while the inclined part, upon which the back rests, the surface is of low friction which facilitates a progressive decompression of the whole spine also using only the force of gravity.
- 3) Orthopaedic bench to improve the therapeutic condition of the spine and back, as in previous claims, **characterized by the fact that** the height (4) of the bench forces the knees into an higher position than the level of the person's spine.
- 4) Orthopaedic bench to improve the therapeutic condition of the spine and back, as in previous claims, **characterized by the fact that** for the inherent simplicity of the structural configuration it is free of concentration zones that could strain the joints or ligaments.
- 5) Orthopaedic bench to improve the therapeutic condition of the spine and back, as in previous claims, **characterized by the fact that** its constant use helps improve the person posture.
- 6) Orthopaedic bench to improve the therapeutic condition of the spine and back, as in previous claims, **characterized by the fact that** structural configuration of the bench helps improve blood circulation in the patient' s back.

REPLACED BY  
ART 34 AMDT